

§ 1152.10

45 CFR Ch. XI (10–1–02 Edition)

(d) If a program or activity is not selected for a state process, state, areawide, regional and local officials and entities may submit comments to the Endowment. In addition, if a state process recommendation for a non-selected program or activity is transmitted to the Endowment by the single point of contact, the Chairman follows the procedure of § 1152.10 of this part.

(e) The Chairman considers comments which do not constitute a state process recommendation submitted under these regulations and for which the Chairman is not required to apply the procedures of § 1152.10 of this part, when such comments are provided by a single point of contact or directly to the Endowment by a commenting party.

§ 1152.10 How does the Chairman make efforts to accommodate inter-governmental concerns?

(a) If a state process provides a state process recommendation to the Endowment through its single point of contact, the Chairman either:

- (1) Accepts the recommendation;
- (2) Reaches a mutually agreeable solution with the state process; or
- (3) Provides the single point of contact with such written explanation of the decision, as the Chairman in his or her discretion deems appropriate. The Chairman may supplement the written explanation by also providing the explanation to the single point of contact by telephone other telecommunication, or other means.

(b) In any explanation under paragraph (a)(3) of this section the Chairman informs the single point of contact that:

- (1) The Endowment will not implement its decision for ten days after the single point of contact receives the explanation; or
- (2) The Chairman has reviewed the decision and determined that, because of unusual circumstances, the ten-day waiting period is not feasible.
- (c) For purposes of computing the waiting period under paragraph (b)(1) of this section, a single point of contact is presumed to have received written notification 5 days after the date of mailing of such notification.

§ 1152.11 What are the Chairman's obligations in interstate situations?

(a) The Chairman is responsible for:

- (1) Identifying proposed Federal financial assistance that has an impact on interstate areas;
- (2) Notifying appropriate officials and entities in states which have adopted a process and which select the Endowment's program or activity;
- (3) Making efforts to identify and notify the affected state, areawide, regional, and local officials and entities in those states that have not adopted a process under the Order or do not select the Endowment's program or activity;
- (4) Responding pursuant to § 1152.10 of this part if the Chairman receives a recommendation from a designated areawide agency transmitted by a single point of contact, in cases in which the review, coordination, and communication with the Endowment have been delegated.
- (b) The Chairman uses the procedures in § 1152.10 if a state process provides a state process recommendation to the Endowment through a single point of contact.

§ 1152.12 How may a state simplify, consolidate, or substitute federally required state plans?

(a) As used in this section:

- (1) *Simplify* means that a state may develop its own format, choose its own submission date, and select the planning period for a state plan.
- (2) *Consolidate* means that a state may meet statutory and regulatory requirements by combining two or more plans into one document and that the state can select the format, submission date, and planning period for the consolidated plan.
- (3) *Substitute* means that a state may use a plan or other document that it has developed for its own purposes to meet Federal requirements.
- (b) If not inconsistent with law, a state may decide to try to simplify, consolidate, or substitute Federally required state plans without prior approval by the Chairman.
- (c) The Chairman reviews each state plan that a state has simplified, consolidated, or substituted and accepts

the plan only if it meets Federal requirements.

§ 1152.13 May the Chairman waive any provision of these regulations?

In an emergency, the Chairman may waive any provision of these regulations.

PART 1153—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL ENDOWMENT FOR THE ARTS

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SOURCE: 51 FR 22895 and 22896, June 23, 1986, unless otherwise noted.

§ 1153.101 Purpose.

This part effectuates section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 1153.102 Application.

This part applies to all programs or activities conducted by the agency.

§ 1153.103 Definitions.

For purposes of this part, the term—
Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, brailled materials, audio recordings, telecommunications devices and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

Complete complaint means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

Facility means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

Handicapped person means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

As used in this definition, the phrase:

(1) *Physical or mental impairment* includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive;